HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 266(SB) 2006

Mool Chand Ahirwar S/o late S. Danui,
Presently posted as Works Manager,
Government Irrigation Workshop Roorkee,
Haridwar, district Haridwar. ----Petitioner.

Versus

1. State of Uttaranchal through Principal Secretary Irrigation, Secretariat Complex Dehradun,
2. Additional Secretary Office of Executive Engineer, Irrigation, Development Division, Dehradun,
3. Suresh Kumar Vaishya, posted as Executive Engineer, At Tubewell Division, Haldwani. ----Respondents.

Mr. Navneet Kaushik, learned Counsel for the petitioner.
Sri N.B. Tewari, learned Chief Standing Counsel for the State.
Sri Paresh Tripathi, learned counsel for respondent no. 3,

Coram:- Hon'ble M.M. Ghildiyal, J.
Hon'ble J.C.S. Rawat, J.

P.C.:-

Heard Mr. Navneet Kaushik, learned Counsel for the petitioner, Sri N.B. Tewari, learned Chief Standing Counsel for the State and Sri Paresh Tripathi, learned counsel for respondent no. 3,

The present writ petition has been filed for the following reliefs:-

i. Issue a writ, order or direction in the nature of certiorari quashing the impugned transfer order dated 11.08.2006 (annexure-3) passed by respondent no.1,

ii. Issue a writ, or direction in the nature of mandamus directing the respondents not to give effect

to the impugned transfer order dated 11.08.2006 and to further no tot relieve the petitioner from the post of Works Manager Government Irrigation Workshop Roorkee, Haridwar District Haridwar till the pendency of present petition,

iii. Issue any other writ, order or direction which be deemed fit and proper under the facts and circumstances of the case in favour of the petitioner,

iv. Award cost of the writ petition to the petitioner.

Vide order dated 27.05.2006 one Mr. V.K. Jain, Engineer, Irrigation Department was transferred from Haldwani to Almora, Sri Suresh Kumar Vaishya/ respondent no. 3 was transferred from Roorkee to Haldwani and the petitioner was transferred from Almora to Roorkee. Sri V.K. Jain filed writ petition no. 177(S/B) 2006 in which this Court on 07.06.2006 passed order that meanwhile operation of the impugned transfer order dated 27.05.2006 passed by respondent no. 1/Principal Secretary, Irrigation Department, Uttaranchal, Dehradun shall remain stayed and if the respondent no. 3 has joined his service at the transferred place, he shall be transferred somewhere else at some suitable place after obtaining his representation.

It reveals that after passing order by the High Court on 07.06.2006 on the writ petition no. 177(SB) 2006 filed by Mr. V.K. Jain, the respondents obtained representation from Sri S.K. Vaishya/ respondent no. 3 and has passed order giving him posting at Roorkee. Since the earlier chain was in regard to three persons in respect of three places i.e. Haldwani, Almora and Roorkee. In writ petition no. 177(SB)2006, this Court passed order retaining Mr. V.K. Jain at Haldwani. The

impugned order dated 11th August 2006 has been passed in respect of Sri S.K. Vaishya retaining him at Roorkee in pursuance of the order passed by the High Court on 07.06.2006, after obtaining representation from him, therefore, the petitioner was compelled to remain at Almora.

Submission of the learned counsel for the petitioner is that he has already joined at Roorkee on 03.06.2006, as such, the said order of transfer dated 27.05.2006 cannot be cancelled or reviewed. It is well settled law that the transfer order passed earlier, can be cancelled, even after joining of the incumbent on the transferred post, by giving reasons. In the present case, the respondents have passed the impugned order in pursuance of the order passed by this Court, by recording the reasons. We do not find any merit in the present writ petition. The petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

(J.C.S. Rawat, J.) (M.M. Ghildiayal, J.)

August 19, 2006:
NCM: